

## REMARKS

Claims 1-4 and 6 are all the claims presently pending in the Application. Claims 5 and 7-12 have been cancelled. Claims 1-4 stand rejected under 35 USC 102(e) and claim 6 stands rejected under 35 USC 103. In the Oct. 12, 2005 Office Action, the Examiner allowed dependent claim 12. This claim has been amended into independent form with the intervening dependent claims and Applicant requests that this claim be passed to issue.

It is noted that any claim amendments are made to merely clarify the language of each claim, and not for distinguishing the invention over the prior art, narrowing the claims or for any statutory requirements of patentability. It is further noted that, notwithstanding any claim amendments made herein, Applicant's intent is to encompass equivalents of all claim elements, even if amended herein or later during prosecution.

Claims 1-4 stand rejected under 35 USC 102 over Garakani.

The rejections are respectfully traversed in view of the following discussion.

## THE REJECTION TO GARAKANI

The Examiner alleged that paragraphs 35 and 35 of Garakani disclose "identifying the CM call function as either (a) facsimile ... or (b) data modem" and modifying the processing modes of the call channel in the original gateway, as described in claims 3 and 4. This is incorrect because Garakani fails to teach or

disclose anything regarding determining whether a CM signal in a modem relay is either a fax signal or a modem signal and then switching the gateway to process the fax signal, (If detected). Garakani is only concerned with voice-relay over the modem relay system, not with facsimile processes. For example, paragraph 4 of Garakani states that his disclosure is restricted to finding better data compression rates when a modem relay is used for voice transmissions. No determination is made to look for data, fax, or voice signals is made in Garakani because the disclosure is intended for fax services:

“The present invention is a two-pass method and apparatus for achieving maximal data compression for a vice frame modem relay channel between two endpoint modems. The method includes transitioning the channel from a voice mode to a modem relay mode of operation...”

In paragraphs 35 and 36, Garakani describes detecting an ANSam signal and a V.8 CM signal, but Garakani is only using this detection to determine if the system will transition into the modem relay mode, not to determine if a fax or data transition should be made. In the amended claims 3 and 4, two scenarios are claimed. Claim 3 describes processes and transitions to facsimile mode prior to the ANS/ANSam signal expiring, and claim 4 describes the transition to facsimile mode after the ANS/ANSam signal expires. Neither of these processes are taught or suggested in Garakani.

Paragraphs 63, 68, and 70 of Garakani are concerned with maximizing the compression rate for voice between the two endpoints using the “second pass” method:

“At 1000 the second-pass negotiation fo end-to-end compression parameters...occurs that results in maximal and compatible data compression between the modems.”

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The goal of Garakani is to find the maximum data compression rate when transitioning into modem relay mode so that voice samples can be transmitted faster to each modem. This does not teach or suggest transitioning into facsimile processing mode. Garakani does not teach or suggest "and if the CM call function is the facsimile CM signal, preparing the originating modem to support a V.34 facsimile protocol," as recited in claim 3 and "transitioning said originating gateway to the V.34 facsimile relay processing mode of operation when a facsimile relay indication is received from said answering modem," as recited in claim 4.

Based on the foregoing, Applicant respectfully requests the Examiner reconsider and withdraw the rejections. Applicant submits that the claims presently pending in the Application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above Application to issue at the earliest possible time.

The Commissioner is hereby authorized to charge any fees associated with this communication to Client's Deposit Account No. 20-0668.

Respectfully submitted,



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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on February 1, 2006.



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Date